

Remarks

This application has been reviewed in light of the Office Action mailed May 5, 2003. Claims 45 and 49-51 are pending in this application. By the present Amendment, claims 1-44 and 46-48 have been cancelled. It is respectfully submitted that no new matter has been added to the application.

I. REJECTIONS OF THE CLAIMS

The claims stand rejected as follows:

- A. Claims 1-6, 9-14, 17-22, 25-28, 34-36, 38-40 and 44-47 are rejected under 35 USC §102(e) in view of U.S. Patent No. 6,265,675 to Hubler et al. (the '675 patent);
- B. Claims 41, 42, 48 , 49 and 51 are rejected under 35 USC §103 as being obvious over the '675 patent in view of U.S. Patent No. 4,742,878 to Freeman et al. (the '878 patent);
- C. Claims 7, 8, 15, 16 , 23, 24, 29, 30-33, 43 and 50 are rejected under 35 USC §103 as being obvious over the '675 patent in view of U.S. Patent No. 5,326,938 to Tolson (the '938 patent); and
- D. Claim 37 is rejected under 35 USC §103 as being obvious over the '675 patent.

As mentioned above, claims 1-44 and 46-48 have been cancelled. In accordance with the below remarks, the rejections with respect to pending independent claim 45 and depending claims 49-51 are respectfully traversed.

Independent claim 45 has been amended to include the recitations of now canceled claim 48, which recitations are:

comparing said weight of said moving mailpiece to a postal weight break to determine if said postal weight break is within the margin of error of said weighing mechanism;

stopping transport of said moving mailpiece if said postal weight break is within the margin of error of said weighing mechanism ;

reweighing said mailpiece if said postal weight break is within the margin of error of said weighing mechanism;

These aforesaid steps are advantageous in a method for weighing moving mailpieces because when it is 1)detected that a weight of a measured moving mailpiece fails within a new class of more expensive postage by a predetermined margin of error tolerance, to ensure this more expensive postage is indeed required, 2) movement of the mailpiece is stopped and 3) the now stopped mailpiece is reweighed (which provides a more accurate measurement of its weight) to ensure the more expensive class of postage is actually required.

The '675 patent is cited by the Examiner based upon it discloses an apparatus for weighing moving mailpieces but does not teach "temporarily stopping the transport of a mail piece across the weighing station if the postal break point is within the margin of error of the weighing mechanism." In an attempt to overcome this deficiency, the Examiner applies the '878 patent (making reference to Col. 8 lines 34-49; Col. 9, line 65 to Col. 11, line 2) and asserts "it is well known in the art to take more time to weigh a item of post if the postal break point is within the margin of error of the weighing mechanism that the item is being transported across . . . "

Applicants being a leader in the postal industry respectfully disagree that it is known to 1)first weigh a moving mailpiece and 2)after determining the postal break point is within a margin of error 3)stopping the mailpiece to weigh it again. With respect to the commonly assigned '878 patent, it merely teaches of slowing down a mailpiece transport to accommodate for the setting cycle of a postage meter. The '878 patent has no teachings or suggestions regarding the above three steps as currently recited in independent claim 45.

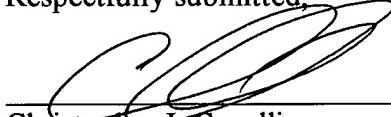
With respect to the '938 patent, it is cited by the Examiner for arguably teaching using two load cells to weigh a moving mailpiece. Thus, the '938 patent does not overcome the aforesaid deficiencies of the combination of the '675 patent with the '878 patent in teaching or suggesting applicants claimed invention as recited by claim 45.

Therefore, it is respectfully submitted that claim 45 and depending claims 49-51, at least for the reasons stated above, patentably distinguish from '675, '878 and '938 patents taken either alone or in combination with one another. According, these claims are believed to be in condition for allowance and removal of the subject rejections is respectfully requested.

III. CONCLUSION

In view of the foregoing amendments and following remarks, it is respectfully submitted that the pending claim of this application (namely claims 45 and 49-51) are now in a condition for allowance and favorable action thereon is requested.

Respectfully submitted,



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